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Green criminology: shining a critical lens on environmental harm

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ABSTRACT Green criminology provides for inter-disciplinary and multi-disciplinary engagement with environmental crimes and wider environmental harms. Green criminology applies a broad “green” perspective to environmental harms, ecological justice, and the study of environmental laws and criminality, which includes crimes affecting the environment and non-human nature. Within the ecological justice and species justice perspectives of green criminology there is a contention that justice systems need to do more than just consider anthropocentric notions of criminal justice, they should also consider how justice systems can provide protection and redress for the environment and other species. Green criminological scholarship has, thus, paid direct attention to theoretical questions of whether and how justice systems deal with crimes against animals and the environment; it has begun to conceptualize policy perspectives that can provide contemporary ecological justice alongside mainstream criminal justice. Moving beyond mainstream criminology’s focus on individual offenders, green criminology also explores state failure in environmental protection and corporate offending and environmentally harmful business practices. A central discussion within green criminology is that of whether environmental *harm* rather than environmental crime should be its focus, and whether green “crimes” should be seen as the focus of mainstream criminal justice and dealt with by core criminal justice agencies such as the police, or whether they should be considered as being beyond the mainstream. This article provides an introductory overview that complements a multi- and inter-disciplinary article collection dedicated to green criminological thinking and research.

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Introduction

Green Criminology as a field operates as a tool for studying, analyzing, and dealing with environmental crimes and wider environmental harms that are often ignored by mainstream criminology. It provides for an inter-disciplinary, and multi-disciplinary, engagement and approach, which redefines criminology as not just being concerned with crime or social harm falling within the remit of criminal justice systems. Green crime is a fast-moving and somewhat contested area in which academics, policymakers and practitioners frequently disagree not only on how green crimes should be defined but also on: the nature of the criminality involved; potential solutions to problems of green crime; and the content and priorities of policy (Nurse, 2016). Within ecological justice discourse, for example, there may be agreement that harms to the environment and non-human animals must be addressed (Benton, 1998). But debates continue over whether green crimes are best addressed through criminal justice systems or via civil or administrative mechanisms. Indeed, a central discussion within green criminology is that of whether environmental *harm* rather than environmental crime should be its focus, with the environmental harm perspective currently dominating green criminological discourse. In essence, there is ongoing fundamental debate over whether green crimes should be seen as the focus of mainstream criminal justice and dealt with by core criminal justice agencies such as the police, or whether they should be considered as being beyond the mainstream. This article provides an introductory overview to a multi- and inter-disciplinary thematic collection dedicated to green criminological thinking and research.

Green criminology: a call to arms

Green criminology is not easily categorized given that it draws together a number of different perspectives as well as theoretical and ideological conceptions. Thus, rather than there being one distinct green criminology, it is rather an umbrella term for a criminology concerned with the general neglect of ecological issues within criminology (Lynch and Stretesky, 2014:1) as well as the incorporation of green perspectives within mainstream criminology. Indeed as Lynch and Stretesky succinctly state:

“As criminologists we are not simply concerned that our discipline continues to neglect green issues, we are disturbed by the fact that, as a discipline, criminology is unable to perceive the wisdom of taking green harms more seriously, and the need to reorient itself in ways that make it part of the solution to the large global environmental problems we now face as the species that produces those problems” (2014: 2).

For mainstream criminology, restrictive notions of police and policing by state institutions and of crime as being solely that determined as such by the criminal law dominate. Yet Lynch and Stretesky (2014) highlight that environmental harms constitute a major threat to human survival and that green crimes such as pollution constitute a substantial threat to human life yet are often ignored by mainstream justice systems. Accordingly, green criminology, extends beyond the focus on street and interpersonal crimes to encompass consideration of “the destructive effects of human activities on local and global ecosystems” (South and Beirne, 1998: 147). In doing so green criminology considers not just questions of crime as defined by a strict legalist/criminal law conception (Situ and Emmons, 2000), but also examines questions concerning rights, justice, morals, victimization, criminality, and the use of administrative, civil and regulatory justice systems. Green criminology also examines the actions of non-state criminal justice actors such as Non-Governmental Organizations

(NGOs) and civil society organizations and the role of the state as a major contributor to environmental harm.

Given green criminology’s nature as a broad field encompassing discourse on a range of issues relating to environmental harm, this thematic article collection offers discussion of a range of issues that help to advance green criminological discussion.

State-crime is a concern of green criminology, particularly in respect of state responsibility for protecting the environment and natural resources, and the associated harm when states fail to comply with their obligations. Weston and Bollier identify that according to, Locke’s notion of *res nullius*, environmental and wildlife resources “belong to no one and are, therefore, free for the taking” (2013: 127). However, the public trust doctrine argues that environmental resources such as water and fisheries are held in trust for the public and so there is a responsibility to use such resources widely in the public interest (Blumm and Wood, 2013). As noted by Lynch, Stretesky and Long (2017), water pollution provides an example of both green victimization and of how green crimes can appear in societies on an everyday level. Scholars such as Johnson et al. (2016) and Lynch and Stretesky (2013) have examined how states and corporations have commodified water sources as something that can be owned or leased and subsequently can be exploited. Johnson et al. (2016) identify how in some jurisdictions, the privatization of water has enabled corporations and corrupt states to exploit a fundamental human right. At a basic level, examining the extent and control of water pollution by legal state water treatment facilities illuminates the extent to which state failings in use of water resources can constitute a state-crime. Publicly Owned Water Treatment Facilities (or POWTs) are usually owned by the state/government and represent a mechanism through which water is used as a public good. To quote, for example, from the California Constitution Article X Section 2:

“It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare.[...].”

Similar provisions will be found elsewhere codifying the principle of efficient use of water resources. Thus, failure to effectively manage state water resources and to eliminate or control pollution that impacts negatively on water resources likely raises regulatory concerns. Waste treatment is often a regulated industry and regulations designed to control the emissions of water pollution into waterways (through such measures as the US Clean Water Act) combine with public trust concerns to ensure that natural resources are effectively used. Yet as the discussion in this collection illustrates, POWTs release significant quantities of pollutants into waterways, contributing to environmental harm. Green criminologists interested in these areas may well note that water offenses will not always fall within the remit of the criminal law and may not be dealt with by mainstream policing agencies. Instead they may fall within the jurisdiction of environmental regulators like the Environmental Protection Agency who may choose from a menu of criminal, civil, or administrative sanctions when taking enforcement action. As the POWTs are legal actors operating a legitimate business, enforcement action may be regulatory or administrative, consisting of fines or other administrative action designed to correct the problem and allow the operator to continue their business rather than imposing

incapacitating punishment. Such action illustrates a concern of many green criminologists in how neoliberal markets, capitalist systems, and the activities of otherwise legal corporate actors can cause significant environmental harm that arguably constitutes a crime against the environment. The relatively low level of prosecutions for pollution activity arguably illustrates this issue. This issue is explored by Ozymy and Jarrell (2017) who highlight the diffuse structure of the environmental regulatory regime in the United States and lack of governmental databases, which makes empirical assessment of environmental crimes and enforcement efforts particularly difficult.

Wildlife crime is also a core concern of green criminology (van Uhm, 2016; Nurse, 2015; Wyatt, 2013; Sollund, 2011; South and Wyatt, 2011). Much green criminological discourse is concerned with wildlife trafficking and the illegal trade in wildlife, particularly trafficking in endangered species (Schneider, 2008). However, the illegal killing of wildlife particularly within farming and ranching areas, has recently caught the attention of green criminological scholars. Killing of large predators such as wolves and lynx has been characterized as a form of resistance by some scholars (von Essen et al., 2016; von Essen and Allen, 2015) and illustrates the conflict between conservation and animal protection ideologies and the needs of rural communities. While most states have animal protection laws intended to protect wildlife from unnecessary human predation, hunting remains a legal and regulated activity. Thus, illegal killing of wildlife within hunting communities should in principle attract the attention of law enforcement agencies. Yet, such killings sometimes take place with the approval of the community and arguably constitute a form of organized crime. How the state deals with such illegal killings and its attitudes toward hunting communities who do so is of interest to determining how states implement species justice concerns (see Sollund, 2017). Sollund (2016) has previously illustrated how defining animals as “other” and their legal conception as property can help distance animal killing from other forms of violent crime. The case under discussion in this thematic collection illustrates how notions of folk crime and resistance can be employed to minimize the seriousness of illegal killing of endangered species. Yet at the same time, police and judicial responses to wildlife killing can view this as serious crime commensurate with global notions of wildlife crime as serious activity.

Green Criminology also examines mechanisms for disrupting and preventing environmental crime and reducing harms to non-human animals and the environment (Wellsmith, 2010, 2011; Nurse, 2015). Traditional reactive policing models of detection, apprehension and punishment (Bright, 1993) risk being inadequate in the case of environmental harm where irreparable environmental damage or loss of animal life may have already been caused. Likewise, traditional justice systems are also often inadequate to redress the impact of environmental harm. Hall (2017) makes a case for the wider utilization of restorative justice and mediation-based approaches as a means of providing alternative or parallel justice mechanisms for both human and non-human victims of environmental crimes and broader environmental harms. Such consideration of alternatives is integral to green criminology's critical approach, which also seeks to promote preventive or disruptive enforcement activity aimed at preventing environmental harm before it occurs. Collaborative and multi-agency approaches offer scope to disrupt environmentally harmful activity as the waste industry case study in this thematic collection illustrates. As a form of critical criminological discourse, green criminology arguably shines a light on the failure of mainstream and traditional justice approaches to deal with such complex crime and in their discussion of multi-agency collaboration in this collection, White and Barrett (2017)

argue for innovative means to combat the multi-dimensional nature of environmental crimes.

The issues discussed within this thematic article collection help position green criminology as a discipline that considers not just questions of crime as defined by a strict legalist/criminal law conception (Situ and Emmons, 2000), but also questions concerning rights, justice, morals, victimization, criminality, and the use of administrative, civil and regulatory justice systems. The papers included all follow a critical path, expressing a claim of an alternative criminology consistent with South's claim that addressing environmental harms and injustice requires “a new academic way of looking at the world but also a new global politics” (2010: 242).

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